

OLC 77-3270
8 SEP 1977

77-7824/5

MEMORANDUM FOR: Director of Central Intelligence

VIA : Acting Deputy Director of Central Intelligence

FROM : George L. Cary, Legislative Counsel

SUBJECT : NSA Response to Requests for Information Made by Non-Oversight Committees and Subcommittees of the Congress

REFERENCE : Director NSA Memorandum to the DCI, Serial NO576, Subject: Provision of SIGINT Foreign Intelligence to the Non-Oversight Committees of the Congress, dated 17 May 1977

1. (S) Action Requested: This memorandum requests that you take the position, in the wake of the PRM-11 findings, that NSA should respond to non-oversight congressional inquiries via the Legislative Counsel of the Director of Central Intelligence.

2. (S) Background:

a. As you are aware, CIA is presently dealing with several committees and subcommittees of the Congress which are investigating the [REDACTED]

b. In the course of your first contact with Chairman Donald M. Fraser (D., Minn.), Subcommittee on International Relations, House International Relations Committee, you suggested to Chairman Fraser that, if he wished to query the NSA in pursuit of his investigation, you, in your role as DCI, would accept the query and arrange for a response.

c. I and members of my staff have since met with NSA representatives to discuss the means through which we might accomplish this objective. While we have found the NSA representatives open and forthcoming, we are advised that they do not yet have approval to pass information to the Fraser Subcommittee, which has

EXECUTIVE REGISTRY FILE

NSA

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thus far been the principal customer for NSA information. (We now have a 28 July 1977 letter from the Senate Select Committee on Intelligence to which, we are told, Chairman Inouye looks forward to your response for the Community.)

d. Reference memorandum suggests that NSA responses to congressional queries should be made through the Intelligence Community Staff. If taken literally, reference memorandum proposes that all agencies responding to congressional inquiries should receive the inquiry from the IC Staff and make the response through the IC Staff. This would mean in effect, that, if CIA wished to respond to the request of a Senator or Congressman for a briefing on any subject, CIA would have to take action via the IC Staff. We find this proposal needlessly cumbersome and would prefer that the query and response should flow in both directions through your Legislative Counsel, who has traditionally maintained contact with the Congress in behalf of the DCI.

3. (S) Recommendation: The executive agent and action office for non-oversight congressional requests of NSA for information should be the DCI's Legislative Counsel.

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George L. Eary

APPROVED:

Agree except that it has to be same
Director of Central Intelligence

17 SEP 1977

Date

DISAPPROVED:

Director of Central Intelligence

Date

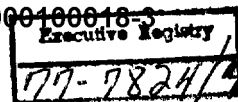
*For CIA as NSA. As a
practical matter, until or unless
DCI has his own OLC, that
means no substantive change*

For CIA
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28 June 1977

NSA
8 Sept

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NOTE FOR:

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FROM :

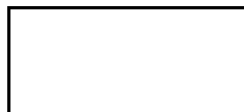
Pursuant to our discussion of this morning, herewith a copy of the Director's note on John McMahon's memo of 3 June re the NSA/Intelligence Community problem.

Also attached you will find a copy of a second McMahon memo addressed to DIRNSA and the DDCI, following on the Fraser Subcommittee request for NSA info.

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I have encouraged George and Lyle that we should reconvene with of NSA so that we can be reasonably certain we all know what's going on. I don't know about you, but I don't know what's going on right now.

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Attachments
As stated

EXECUTIVE REGISTRY FILE NSA

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27 June 1977

MEMORANDUM FOR: George L. Cary, Legislative Counsel
[redacted] Deputy Legislative Counsel
FROM : [redacted]
Office of Legislative Counsel
SUBJECT : The Intelligence Community Staff and the National Security Agency

1. (S) I made contact with General Jack Thomas, IC Staff, this afternoon to attempt to confirm with him that NSA had responded to a Fraser Subcommittee (Subcommittee on International Organizations, House International Relations Committee) query sent to NSA by the IC Staff. What appears below confirms that this did happen.

2. (S) The Director tasked John McMahon, Acting Deputy to the DCI for the Intelligence Community, with the response to the Fraser Subcommittee letter (23 May 1977, OLC 77-2118, SIO 77-0018), which included a request for NSA information. General Thomas believes this may have happened at one of the Director's morning meetings but he is not certain of this. Mr. McMahon then wrote a memorandum to two addresses, i.e., 1) DDCI and 2) Director of NSA (31 May 1977, SC-01381-77), asking for responses to the 23 May Fraser letter from CIA and NSA.

3. (S) General Thomas relates that [redacted] of NSA gave him an oral negative reply to the NSA part of the query. General Thomas has asked for a confirming memorandum, which he has not yet received. General Thomas said that NSA answered the IC request but CIA did not. I pointed out to him that we had never seen the IC Staff memo of 31 May, that we deal directly with the Fraser Subcommittee, and that the CIA part of the requirements was answered by Robert Boettcher's, Staff Director, Fraser Subcommittee, and Michael Hershman's, Deputy Staff Director, reading files here.

4. (S) If this clears it up for you, it certainly does not for me. I suggested to General Thomas that no further action be taken until step one is given further consideration, i.e., the Director understands why we believe it is too much of a dogleg to try to work requests like these through the IC Staff, and the Director signs the memorandum to Lt. Gen. Lew Allen, Director of NSA, which has been bouncing around for some weeks. As he did when we met with the NSA representatives, General Thomas still feels it is not a practical arrangement to do all of our business with the Congress through the IC Staff.

Distribution

Orig - addressees

1 - IC Staff (Gen. Jack Thomas)

1 - A/DDCI [redacted]

1 - OLC Sub [redacted]

1 - OLC Chrono

OLC:PG:sf (28 June 1977)

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OLC 77-2310
Executive Registry
77-7824/1

DCI/IC-77-0820

03 JUN 1977

MEMORANDUM FOR: Director of Central Intelligence

FROM : John N. McMahon
Acting Deputy to the DCI for the
Intelligence Community

SUBJECT : DIRNSA Memorandum Concerning Provision of Intelligence
to Non-Oversight Committees of Congress

1. Action Requested: Your signature on the attached memorandum to Lieutenant General Allen, Director of NSA, which responds to his 17 May memorandum to you, subject, "Provision of SIGINT Foreign Intelligence to the Non-Oversight Committees of Congress."

2. Background:

a. DIRNSA has recently had complicated problems in responding to requests for data from staffers of the Subcommittee on Foreign Economic Policy of the Senate Foreign Relations Committee. The Secretary of Defense was involved in resolving issues which the questions posed. The particular inquiries that led to the DIRNSA memorandum have been taken care of. Representatives of your OLC and ICS provided informal advice to NSA.

b. An answer is still owed to DIRNSA, however, since he proposed in his memorandum that you deal with the non-oversight committees by requiring that all inquiries from them for intelligence information, and the responses thereto, be channeled through a designated individual on your Intelligence Community Staff. (This proposal was not coordinated within OSD before being made to you.)

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c. Adoption of such procedures would require that all organizations of the Intelligence Community be fitted into the program, which would disrupt the system CIA now uses to provide direct responses to requests from Congressional committees. Because of CIA objections to working through a single ICS point of contact with Congress, no effort was made to check what the OSD reaction would be, but it seems reasonable to expect there would be objections.

d. A different approach, involving close liaison among Legislative Counsels, is proposed in the letter prepared for your reply to DIRNSA. This approach has been discussed with the NSA Assistant Director for Legislative and Legal Affairs and has his informal concurrence.

3. It is recommended you sign the attached memorandum.

John N. McMahon

Executive Registry

11-1824/3

Attachment:
as stated

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John - I'm inclined in
the opposite direction - seems
to me that's essence of control
we are seeking in reorganization &
that this is going to multiply
before long -

WASHINGTON, D. C. 20505

Intelligence Community Staff

25X1

Copy ~~3~~ ~~61~~ ~~8~~

31 MAY 1977

MEMORANDUM FOR: Director, National Security Agency
Deputy Director, Central Intelligence Agency

FROM : John N. McMahon
Acting Deputy to the DCI for the
Intelligence Community

SUBJECT : Data Request from House Committee on
International Relations

inf *17-1415* *congress*

1. Reference is the attached letter of 23 May 1977 to the DCI from Congressman Donald M. Fraser, Chairman, Subcommittee on International Organizations, House Committee on International Relations, requesting documents from the NSA and the CIA relating to designated [redacted]

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2. The DCI wishes to respond to this letter on behalf of both NSA and CIA, and has requested that I assemble the necessary information.

3. Accordingly, it is requested that each addressee provide me the basis for a reply to Congressman Fraser.

a. If the materials responsive to the subjects posed by Congressman Fraser are relatively few in number and of such a nature that they could be identified and offered for review by Committee staff personnel who are cleared at CIA and NSA, the actual documents should be listed.

John N. McMahon

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b. If there is a considerable volume of material which will require review, a general description of the available material can be passed to the Congressman and arrangements made for the necessary review at CIA and NSA.

c. In particular, it would be important to indicate to Congressman Fraser whether any information is available concerning the meetings cited in paragraph (1) of his letter or the individuals named in paragraph (2) and concerning any of the more than 50 organizations listed in the attachment to his letter.

4. Without knowing how extensive a search will be required to accommodate to this request, I hesitate to set a deadline. Instead, I request that you contact my action officer, [redacted], and advise him how soon you can respond. He can be reached on secure green line [redacted]

[redacted]
John N. McMahon

Attachment:
as stated

Distribution:

Cy 1 - D/NSA, w/att
Cy 2 - DDCI, w/att
Cy 3 - ER, w/att
Cy 4 - A-D/DCI/IC, w/att
Cy 5 - SA-D/DCI/IC (JET), w/att
Cy 6 - ES/ICS Chrono, w/att
Cy 7 - ES/ICS Subject, w/att
Cy 8 - IC Registry, w/att

SA-D/DCI/IC/[redacted]
(27 May 1977)

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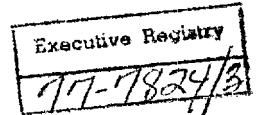
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d. A different approach, involving close liaison among Legislative Counsels, is proposed in the letter prepared for your reply to DIRNSA. This approach has been discussed with the NSA Assistant Director for Legislative and Legal Affairs and has his informal concurrence.

3. It is recommended you sign the attached memorandum.

John N. McMahon



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Attachment:
as stated

*John - I'm inclined in
the opposite direction - seems
to me that's essence of control
we are seeking in reorganization &
that this is going to multiply
before long -*

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Executive Registry

76-1149

Approved For Release 2004/03/26 : CIA-RDP80M00165A002000100018-3

OLC 76-0494

26 February 1976

MEMORANDUM FOR: Director

FROM : Legislative Counsel

SUBJECT : Role of the Office of Legislative Counsel

1. The restructuring and new emphasis on your responsibilities as Director of Central Intelligence and head of the Central Intelligence Agency in the Executive Order resulted from the compromise of diverse views. However, it is my opinion that congressional expectations of your role will continue to be viewed in light of the provisions of the 1947 Act and the quarter of a century experience Congress has had with your office and that Act. Simply put, I think this boils down to:

a. National Intelligence Judgments. The Congress views the Director of Central Intelligence as supra-departmental, without a departmental or policy bias, thus abling you to provide unvarnished assessments of foreign situations.

b. Appropriations. The Appropriations Committees, and to a lesser extent, the Armed Services Committees, have been eager to see a more assertive DCI in connection with intelligence program contents and dollars, and the rationalizing of the intelligence community budget for DOD elements.

c. Legislation. As a matter of practice, the DCI has spoken for the interests of the Agency and the intelligence community on legislation of common concern.

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d. Committee Requests. The DCI has served as focal point for coordinating responses by intelligence community agencies to committees of Congress on matters of common concern.

In the past, this office has served as personal staff for previous Directors in all four of these roles and it is recommended that this be continued for the future.

2. From the congressional viewpoint, the most significant adjustments in your role deals with appropriations. This, together with your responsibility as principal spokesman to the Congress for the intelligence community, creates a role which the Appropriations Committees in both Houses have long been eager to see you acquire. They will see you as the arbiter of conflicting priorities in the event of cuts in appropriations and for assuring that conflicting budget presentations are not made.

3. I would like to comment on your various roles with the Congress prior to the Executive Order and under the Executive Order:

a. Substantive Intelligence. No change. The Executive Order cannot make a change since the responsibilities are imposed upon you by law, as head of the Agency, to produce finished intelligence. Congress will still look to you to "tell it like it is." It is your bottom line judgments that will be sought. Admittedly, there is a community-wide input, but so far Congress has not brooked anyone from other departments and agencies to sit in on your executive session briefings to "track what you are saying." I do not see this as changing. (This does not mean, however, that committees, particularly the Armed Services and Appropriations Committees will no longer expect to receive, from time to time, departmental intelligence judgments from DOD. The same will be true for the foreign affairs committees with respect to State.)

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b. Legislation. Although more explicit ("principal spokesman"), no change. Insofar as proposed legislation impacts upon intelligence capabilities, procedures, and programs, it has always been the responsibility of the Director of Central Intelligence, the focal point in statute, for protecting the statutory basis for the performance of your functions.

c. Responses to Congressional Committees. Although more explicit ("principal spokesman"), no change. In the past, this has been essentially a coordinating role where questions impact upon your peculiarly based statutory responsibilities.

d. Appropriations. Significant change. It is in this area that your responsibilities under the Executive Order have been most enhanced as a result of your Chairmanship of the CFI and the responsibilities imposed upon it. In the past, the Director of Central Intelligence has made presentations to the Appropriations Committees for the intelligence community budget and the CIA budget. The Director's intelligence community presentation has been followed by more detailed presentation by various elements of the intelligence community to the Appropriations Committees. This office, in collaboration with the Comptroller for the Agency budget, and the Intelligence Community staff for the intelligence community budget, has worked out a modus operandi which has and should find the Comptroller and the IC Staff in continuous contact with the Appropriations Committees staff in preparing the budget submission and on follow-ups with the Appropriations Committees. In this respect, the Legislative Counsel serves in partnership with the Comptroller and the IC Staff to support you in anticipating and resolving issues as they develop.

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e. Summary.

1. As I view the Legislative Counsel's responsibility to you, it must cover the totality of your relationships with the Congress. The benefits to be derived by you from having one focal point for congressional relations far outweigh any appearance of managerial improvements by fractionating it into constituent elements representing various responsibilities and roles under the Executive Order (e.g., as Chairman of the Committee on Foreign Intelligence, as principal spokesman for the intelligence community, as facilitating the use of foreign intelligence products by the Congress and in connection with appropriations matters).

2. In each of your four principal roles, this office, as personal staff to the Director, has worked in close collaboration with Agency offices drawing upon their resources, e.g., legal, production, and has coordinated with our counterparts in the affected elements of the community, executive agencies, the White House Legislative Interdepartmental Group, and other staff offices to the President, such as OMB. Procedures for such coordination already exists through OMB directives and years of experience.

3. The enhancement of your coordination and management roles will, however, increase the coordination role of this office with the various legislative counsels throughout the intelligence community. These relationships have existed for some time but

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they may need to be somewhat more formally institutionalized than they have been in the past. However, it is recommended that any such institutionalization be the outgrowth of actual experience under the new arrangements and not formalized at this time.



George L. Cary
Legislative Counsel

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Distribution:

Original - Addressee

1 - DDCI

1 - ER

1 - OGC

1 - Mr.

1 - OLC Subject

OLC/ : baa (26 Feb 76)

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Executive Registry

77-7824/1

VR SC 05555-11

DCI/IC-77-0820

03 JUN 1977

MEMORANDUM FOR: Director of Central Intelligence

FROM : John N. McMahon
Acting Deputy to the DCI for the
Intelligence Community

SUBJECT : DIRNSA Memorandum Concerning Provision of Intelligence
to Non-Oversight Committees of Congress

1. Action Requested: Your signature on the attached memorandum to Lieutenant General Allen, Director of NSA, which responds to his 17 May memorandum to you, subject, "Provision of SIGINT Foreign Intelligence to the Non-Oversight Committees of Congress."

2. Background:

a. DIRNSA has recently had complicated problems in responding to requests for data from staffers of the Subcommittee on Foreign Economic Policy of the Senate Foreign Relations Committee. The Secretary of Defense was involved in resolving issues which the questions posed. The particular inquiries that led to the DIRNSA memorandum have been taken care of. Representatives of your OLC and ICS provided informal advice to NSA.

b. An answer is still owed to DIRNSA, however, since he proposed in his memorandum that you deal with the non-oversight committees by requiring that all inquiries from them for intelligence information, and the responses thereto, be channeled through a designated individual on your Intelligence Community Staff. This proposal was not coordinated within OSD before being made to you.

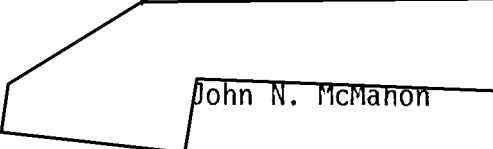
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c. Adoption of such procedures would require that all organizations of the Intelligence Community be fitted into the program, which would disrupt the system CIA now uses to provide direct responses to requests from Congressional committees. Because of CIA objections to working through a single ICS point of contact with Congress, no effort was made to check what the OSD reaction would be, but it seems reasonable to expect there would be objections.

d. A different approach, involving close liaison among Legislative Counsels, is proposed in the letter prepared for your reply to DIRNSA. This approach has been discussed with the NSA Assistant Director for Legislative and Legal Affairs and has his informal concurrence.

3. It is recommended you sign the attached memorandum.


John N. McMahon

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Attachment:
as stated

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Orig. - Adsee., w/att

1 - DDCI, w/att

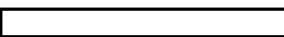
1 - ER, w/att

1 - OLC, w/att

1 - Acting D/DCI/IC, w/att

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1 - IC Registry, w/att

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(2 June 1977)

Approved For Release 2004/03/26 : CIA-RDP80M00165A002000100018-3

THE DIRECTOR OF CENTRAL INTELLIGENCE

WASHINGTON, D. C. 20505

MEMORANDUM FOR: Lieutenant General Lew Allen, Jr., USAF
Director, National Security Agency

SUBJECT : Provision of SIGINT Foreign Intelligence to
Non-Oversight Committees of Congress

1. Reference is your memorandum to me of 17 May 1977, subject as above, in which you recommended that Committees of the Congress that do not have direct oversight responsibilities be advised that the DCI had established procedures whereby all committee requests for intelligence information and responses thereto should flow through a designated individual on my Intelligence Community Staff.

2. Since then, representatives of my Office of Legislative Counsel and Intelligence Community Staff have discussed with your Assistant Director for Legal and Legislative Affairs the kinds of questions posed by non-oversight committees and ways of handling such requests.

3. Many of these questions involve substantive intelligence and are primarily directed to the CIA, in response to which the Agency has established procedures that are working well and which I would be loath to disrupt.

4. Not infrequently, the requests from non-oversight committees, such as those you received recently from the Senate Foreign Relations Committee Subcommittee on Foreign Economic Policy, cannot be handled within intelligence channels alone, and involve consultations at up to the departmental secretary or White House level.

5. I want to be kept aware of situations in which problems arise, whether such involve oversight or non-oversight committees. I do not consider, however, that establishment of a single point of contact for non-oversight committees is the proper approach.

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6. Instead, I propose that the Legislative Counsels, or their counterparts by whatever title, throughout the Intelligence Community, keep in close contact with each other. In particular, I request that George Cary, my Legislative Counsel, be fully advised on any matter involving a Congressional committee or individual Congressman that any senior officer of the Intelligence Community considers should be called to my attention.

7. I want to promote openness in our dealings with the Congress to the extent such can be done without risk to exposure of intelligence sources and methods, and as part of this process, I think we should make a deliberate effort to respond directly to inquiries from non-oversight committees. I recognize that this will require continuing attention to protecting the physical security of classified documents and I hope that oral responses will prove sufficient in most instances.

8. I think the conferences your Assistant Director for Legal and Legislative Affairs has had with my representatives have been beneficial, and I hope this kind of contact will continue.

STANSFIELD TURNER

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ROUTING AND RECORD SHEET (ER 77-7824/5)

SUBJECT: (Optional):
NSA Response to Requests for Information Made by Non-Oversight Committees and
Subcommittees of the Congress

FROM:

EXTENSION

NO.

Legislative Counsel

DATE

8 SEP 1977

TO: (Officer designation, room number, and building)

DATE

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

SIGNATURE

1. AD/DCI/IC

9 Sep

RJK

You will recall the various discussions we have had from time to time regarding Lew Allen's famous memorandum regarding the provision of NSA information to non-oversight committees of the Congress. We have been working individual requests out with NSA with much success. In our dealings with NSA, we learned that Lew referred to the IC Staff on the mistaken assumption that OLC was a part of the ICS (that speaks well of our reputation in representing you in a Community capacity). We are formalizing our guidelines with NSA and would like your approval on this procedure.

3. A/DDCI

13 SEP 1977

B

4. DCI

Rec'd 17 SEP 1977
14 Sept.

SEP 1977

Staley

5. Mr Blake

19 SEP 1977

B

6. Leg Counsel

7. OLC

8. Col. [redacted]

9. 7045 Hqs
Style

10. Please see me

11. on this

12. [redacted]

13.

14.

15.

George L. Cary

To 546: See
DCI memo.

16. Lewis.
19 Sep.

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ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Executive Registry

77-7842

FROM:

Legislative Counsel

EXTENSION

☐

NO.

7 JUN 1977

DATE

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TO: (Officer designation, room number, and building)

DATE

RECEIVED

FORWARDED

OFFICER'S
INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1.

DDCI

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DCI

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15.

Attached is a memorandum from the AD/DCI/IC transmitting a proposed reply to Lew Allen's memo about contacts from non-oversight committees. John McMahon's memo was prepared in consultation with us and I concur in it.

I am attaching for your information a memorandum which I prepared in February 1976 outlining the role of the Office of Legislative Counsel which I think is pertinent in the circumstances. I would particularly call your attention to the summary beginning on page four.

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Legislative Counsel

FORM
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USE PREVIOUS
EDITIONS

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